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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,334	07/06/2001	Peter K. Malkin	YOR9-2001-0313US1 (8728-5)	6308
22150	7590	10/29/2004	EXAMINER	
F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			LANEAU, RONALD	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,334

Applicant(s)

MALKIN ET AL.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The amendment filed on 08/09/2004 has been entered. Claims 1-20 remain pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2 and 5-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Herrod et al (US 6,405,049).

As per claim 1, Herrod discloses a method for providing product information (Figs. 6-8) comprising the steps of:

Establishing a local reference frame which describes a space including a product identifier and a portable display device (Figs. 5-8);

Receiving a request for product information corresponding to the product identifier from the portable display device (Fig. 8a; col. 11);

Determining a position and an orientation of the portable display device in relation to the local reference frame (col. 17, lines 3-14, Figs. 4-8);

Providing the product information via the portable display device according to the position and orientation of the portable display device (col. 17, lines 3-14, Figs. 5-8; cols. 10-12).

As per claim 2, Herrod discloses receiving an order for a product corresponding to the product identifier from the portable display device (col. 13).

As per claim 5, Herrod discloses the step of providing a menu for distinguishing a plurality of products in the space via the portable display device (Figs. 5-8; col. 11).

As per claim 6, Herrod discloses the step of redirecting a user toward an alternative product using the portable display device (Figs. 5-8; col. 11).

As per claim 7, Herr discloses determining the orientation of the portable display device and utilizing that orientation to select options to present to the consumer based upon the location of the product being looked for and another proximate object on the basis of the portable display device (Figs. 5-8; col. 11).

As per claims 8 and 9, Herrod discloses the user of active beacons in the use of determining position by comparing strength (col. 10).

As per claims 10-12, Herrod discloses the use of a geometric positioning system, i.e. using passive environmental markings and determining position relative to an angle between at least two environmental markings (cols. 10-11).

As per claim 13, Herrod discloses that the product information is retrieved from a database stored in the portable display device (Figs. 5-8; cols. 7-8 - the pda stores the information to obtain the product information short. term and the links to upload it from the central databases).

As per claim 14, Herrod discloses that the local reference frame is established relative to the portable display device and moves with the portable display device (Figs. 5-8 - You are Here; cols. 10-12).

System claims 15-18 are rejected for the same reasons set forth above in the method claims above. The means for language has been given its broadest reasonable interpretation.

As per claim 19, Herrod discloses a wireless communications link between the portable display device and a database of product information (Figs. 2-5; cols. 5-8).

The program storage device apparatus of claim 20 is rejected for the same reasons as the method claims set forth above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod, et al. (6,405,049 B2).

Herrod discloses as set forth above. Herrod additionally discloses that there are numerous applications and advantages are provided by the system shown in Figs. 1, 2a and 2B, particularly the advantages of a hand-held terminal such as portability, ease of use and suitability for mobile use in the application of auctions (col. 7). Moreover, auctions are also a retail environment like a grocery store and thus the same applications or local frame references would apply, e.g. car auctions, and auctions of goods that are displayed for view (Christie's and Bankruptcy Auctions of goods and merchandise). However, Herrod does not disclose the step of receiving a bid where the bid corresponds to a product identifier from the portable display

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device. However, as Herrod discloses that the product can be used in auctions it would have to accept a bid where the bid corresponds to a product identifier from the portable display device because otherwise there would be no way to link the bid to the product. It would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized a bid with the system/method of Herrod because Herrod discloses that it can be used in such an environment and because it would facilitate the flow of people and exchange of merchandise, thus creating more sales and facilitating the speed of transactions, just like any other retail environment.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod, et al. (6,405,049 B2) in view of Stevens (US 2002/0087392 A1).

Herrod discloses as set forth above. Herrod additionally discloses that portable terminals include a wide range of applications including word processing, etc. (col. 1). Herrod further discloses that the portable terminal can contain personal ID information and can include customer's buying patterns and preferences, which could include a shopping list to assist in the targeting of product advertisements (Fig.8 and cols. 10-11). However, Herrod does not specifically disclose a corresponding a product identifier to a shopping list. Stevens discloses corresponding a product identifier to a shopping list as it is being created a "to-do-list" on a portable terminal in the shopping environment for price verification and list maintenance for the customer so that he/she know at all times what has been spent in the store ([0014], [0053]).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included the shopping list of Stevens in the system/method of Herrod for the reasons set forth above.

Response to Arguments

7. Applicant's arguments filed on 08/09/2004 have been fully considered but they are not persuasive.

Applicant argues that Herrod does not teach or suggest a system for "providing the product information via the portable display device according to the position and orientation of the portable display". Contrary to applicant's arguments, Herrod teaches a positional orientation that can be incorporated into this present system to activate and deactivate the terminal as claimed (see col. 17, lines 3-14). Applicant's arguments are deemed unpersuasive and claims 1-20 are finally rejected.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RL

Ronald Laneau
Examiner
Art Unit 3627

Ronald Laneau 10/27/04
Primary Examiner

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